

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CARMEN CAMILO,

Plaintiff,

v.

11-CV-1345 (DAB)(SN)  
ADOPTION OF REPORT AND  
RECOMMENDATION

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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DEBORAH A. BATTIS, United States District Judge.

This matter is before the Court on a Report and Recommendation from United States Magistrate Judge Sarah Netburn dated June 10, 2015 ("Report"), which recommends granting the unopposed motion of Plaintiff's counsel for an award of attorney's fees pursuant to 42 U.S.C. § 406(b)(1), in the amount of \$18,218.00. For the reasons stated below, the Report and Recommendation is adopted in its entirety and the motion is GRANTED.

### I. Background

In brief, this suit arises from Plaintiff's challenge to a decision by the Commissioner of Social Security denying Plaintiff's application for disability benefits. By Order dated October 2, 2013, this Court adopted a Report and Recommendation issued by United States Magistrate Judge Michael Dolinger and

remanded the case to the Commissioner for further proceedings. Plaintiff's counsel subsequently filed an unopposed application for an award of fees under the Equal Access to Justice Act in the amount of \$4,123.64. Magistrate Judge Dolinger recommended granting the application, and this Court adopted Judge Dolinger's Report and Recommendation by Order dated May 26, 2015. (ECF No. 36.) Plaintiff's counsel also filed a Motion for Attorney Fees Pursuant to 42 U.S.C. § 406(b)(1) in the amount of \$18,218.00, which represents 25% of the retroactive benefits awarded to Plaintiff payable under § 406(b). (ECF No. 35.) Plaintiff's counsel has represented that upon receipt of both awards, counsel will refund the lesser of the two fees directly to Plaintiff. (Id. at 3.) The Commissioner did not oppose Plaintiff's counsel's Motion, and the Report recommends granting the Motion and awarding the requested fees. Neither Party has filed any objections to the Report.

"Within 14 days after being served with a copy [of a Magistrate Judge's Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); accord 28 U.S.C. § 636(b)(1). The Court may adopt those portions of the Report to which no timely objection has been made, as long as there is no clear error on the face of the record. Wilds v. United Parcel Serv., Inc., 262 F. Supp. 2d 163, 169 (S.D.N.Y.

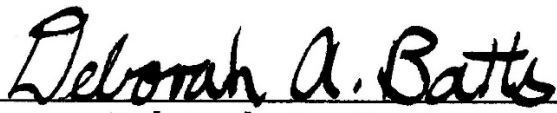
2003) (citation omitted). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate. 28 U.S.C. § 636(b)(1).

Having reviewed the Report and finding no clear error on the face of the record, it is hereby ORDERED that the Report is APPROVED, ADOPTED, and RATIFIED by the Court, and Plaintiff's Counsel's Motion for Attorney's Fees Pursuant 42 U.S.C. § 406(b)(1) is GRANTED.

SO ORDERED.

Dated: August 25, 2015

New York, New York

  
Deborah A. Batts  
United States District Judge